

The Comptroller of Public Accounts proposes amendments to §1.36 concerning interested parties.

In certain contested cases, it may be appropriate to allow a person who has a direct pecuniary interest in the resolution of the case to be admitted as an interested party, with participation limited to the extent of the party's interest. These proposed amendments are intended to ensure that interested parties are not admitted to a contested case against the will of a taxpayer, and to explain the procedure by which an interested party may request to be admitted to a contested case.

The current section allows the admission of an interested person at the discretion of the agency. The proposed amendment is intended to make clear that an interested party will not be admitted to a contested case unless all parties consent. The amended section also specifies that an interested party must submit a request to be admitted to a contested case to the Assistant General Counsel assigned to the case, who will transmit the request to the parties of record, and to the State Office of Administrative Hearings if the case is docketed there.

Public Benefit/Cost; Fiscal Implications for state or local government, small businesses, and individuals.

Comments on the proposal may be submitted to Gina Calviño, Legal Assistant, Office of Special Counsel for Tax Hearings, P.O. Box 13528, Austin, Texas 78711-3528, or [SpecialCounsel.Filings@cpa.texas.gov](mailto:SpecialCounsel.Filings@cpa.texas.gov). Comments must be received no later than 30 days from the date of publication of the proposal in the Texas Register.

The section is proposed under Government Code, §2001.004 (Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions), which requires state agencies to adopt rules of practice, and Tax Code, §111.002 and §111.0022, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2, as well as taxes, fees, or other charges which the comptroller administers under other law.

The section implements Government Code, §2001.004 (Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions), which requires state agencies to adopt rules of practice, and Tax Code, §111.009 (Redetermination) and §111.105 (Tax Refund: Hearing).

<rule>

#### §1.36. Interested Parties

Any person who has a direct pecuniary interest in the resolution of a contested case may request to be admitted as an interested party with the agreement of all parties. Such persons must submit the request to the Assistant General Counsel assigned to the case. The Assistant General Counsel will transmit the request to the parties of record, and if the case is docketed at SOAH, to the assigned administrative law judge[at the discretion of the agency]. If admitted, the interested party's participation will be limited to the extent of the party's interest.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on

LITA GONZALEZ  
General Counsel  
Comptroller of Public Accounts  
\*n

DRAFT